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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CR 16-00166 RS
)	
Plaintiff,)	UNITED STATES' SENTENCING REPLY
)	
v.)	Sentencing Hearing Date: December 13, 2016
)	Hearing Time: 2:30 p.m.
ISLAM SAID NATSHEH,)	Honorable Richard Seeborg
)	
Defendant.)	

The United States submits this Sentencing Reply to defendant ISLAM SAID NATSHEH's Sentencing Memorandum (Natsheh Sent. Memo.) in which he urged the Court to sentence him to 48 months' imprisonment, followed by 5 years of supervised release. Defendant's requested sentence is dramatically at odds with the Sentencing Guidelines, with sentences imposed in similar cases nationwide, and also with 18 U.S.C. § 3553(a)'s requirements to impose a sufficient sentence to accomplish the purposes of the statute. For the reasons previously argued by the government and as discussed further below, the government submits that such a sentence would be substantially inadequate in this case. The government also submits the attached Declaration of FBI Special Agent John C. Illia (Illia Decl.) to rebut some of the evidence offered and factual assertions made by Natsheh in his

1 Sentencing Memorandum.

2 Natsheh's arguments in support of his request for extreme leniency from this Court are summed
3 up on the last page of his Memorandum as follows:

- 4 1. Natsheh was young and his brain was not fully developed when he was recruited by ISIL;
- 5 2. Natsheh will have strong family support after his release;
- 6 3. Natsheh must be low risk since he was not selected for any evaluation or counseling for
7 radicalization;
- 8 4. Natsheh cooperated with law enforcement;
- 9 5. Natsheh's plan to join ISIL was impetuous and he did not prepare for combat;
- 10 6. Natsheh was suffering from an extended period of untreated depression.

11 Natsheh Sent. Memo. at 51.

12 Addressing Natsheh's arguments in order, there is nothing in the record to support his claim that
13 he was immature when recruited by ISIL. To the contrary, the letters of support indicate Natsheh was
14 quite mature for his age, helping care for friends' children and running a restaurant while a woman
15 recovered from major surgery (Natsheh Sent. Memo. Attachment C); working harder and better than
16 other employees at a hotel gift shop (*Id.* at Attachment D); motivating and tutoring a friend from middle
17 school through college (*Id.* at Attachment E); teaching children at the mosque once a week for several
18 months (*Id.* at attachment G); and caring for his younger cousins (*Id.* at Attachment H). Indeed,
19 everybody who knew Natsheh agrees that he was a mature and supportive role model for others. There
20 is nothing in the record to support his argument that he was subject to exploitation by ISIL strictly as a
21 result of his age. Natsheh is young, but he was 19 years old when he began supporting ISIL and was 20
22 at the time he attempted to travel. He led the life of an adult, and must now be held responsible as an
23 adult.

24 Natsheh's extended family and friends seem supportive of him. However, his mother and father,
25 were aware of his interest in ISIL as of early summer 2015 yet did not prevent him from purchasing
26 tickets and attempting to leave the country to join ISIL. *See* Illia Decl. at 2. Neither his family nor his
27 friends were able to help him. *See* Natsheh Sent. Memo. Exhibit C. There is no indication that, despite
28

1 their best intentions, Natsheh's family and friends will be able to ensure that he does not seek to travel
2 overseas for the purpose of joining a foreign terrorist organization in the future. While their support is
3 commendable, this Court should not impose the responsibility on them to rehabilitate him.

4 The government disagrees with Natsheh's assertion that he is not in need of de-radicalization.
5 Natsheh Sent. Memo. at 48. That should be one of the rehabilitation goals of his sentence. But this goal
6 must be balanced with the need to protect society from any future acts of terrorism. The government has
7 no independent information relating to Natsheh's suffering of depression. If that is an accurate
8 diagnosis, the government submits that he should also receive mental health treatment during his
9 custodial and non-custodial sentences as well.

10 Natsheh was cooperative with law enforcement. He agreed to speak with law enforcement and
11 consented to the search of his phone. He was always forthcoming about his intentions – fighting with
12 ISIL. Natsheh has never told law enforcement that he renounced his support of ISIL since he was
13 stopped at the airport. *See Illia Decl.* at 6. At this point, it is irrelevant whether or not he was
14 cooperative. All that matters is that he has repeatedly asserted his desire to fight for ISIL.

15 Natsheh's plans were far from impetuous. At least as early as February 2015, Natsheh declared
16 his bay'ah to the leader of ISIL. *Illia Decl.* at 4. Also in February 2015, Natsheh posted the video of the
17 Jordanian pilot being burned alive by ISIL. *Id.* at 3. When interviewed in August 2015, Natsheh did not
18 back off from his support of the posting of the video. PSR at ¶ 7. However, he claimed that he had
19 changed his views in the past few months, believing the best thing he could do for his "cause" was to get
20 educated and spread awareness. *Id.* Yet, almost five months later, Natsheh was attempting to board a
21 plane to fight with ISIL. Natsheh had been communicating with his intended travel companion for a
22 couple of months regarding their trip to Syria. Natsheh opened a new credit line which he used solely to
23 purchase the plane tickets. He purchased the tickets two weeks before the intended departure, and he
24 purchased them round-trip in order to raise less suspicion. *Illia Decl.* at 5, PSR at ¶ 10. Natsheh
25 withdrew all the money from his bank account, left his father and sister behind, abandoned his
26 belongings, and attempted to travel to Syria. *See Illia Decl.* at 5. But for being stopped at the airport,
27 Natsheh would have accomplished his goal. There is nothing impetuous about all these acts.

1 Regardless of how outrageous his conduct seems, he acted deliberately over a period of months to
2 accomplish a goal of pledging his support to ISIL.

3 Finally, in response to Natsheh's objections to two special conditions of supervised release, the
4 government submits they are both necessary. First, Natsheh objects to special condition number six as
5 having no ties to the charged conduct. Natsheh Sent. Memo. at 50. Natsheh ignores the fact that he
6 opened a line of credit for the sole purpose of purchasing two round-trip tickets to Turkey. Therefore, it
7 is important for his Probation Officer to monitor his finances to make sure that he does not use funds for
8 an unlawful purpose. Special Condition number 9 is equally important, although it could be worded
9 differently in order to address Natsheh's objection. As noted in the PSR, Natsheh posted a picture of the
10 ISIL flag on his twitter account. PSR at ¶ 8. Therefore, he has supported their insignia. The
11 government suggests that the last sentence read as follows: "If he is found to be in the company of such
12 individuals or wearing clothing, colors, or insignia known to be or identified to him as being associated
13 with the above-noted terrorist groups, the court will presume that the association was for the purpose of
14 participating in unlawful activity."

15 There is no excuse for Natsheh's conduct. Whether a result of poor judgment or good
16 propaganda, Natsheh has repeatedly disregarded warnings about ISIL. The interview by the FBI in
17 August 2015 should have served as a warning and an opportunity to turn away from the ideology. Yet,
18 less than five months later, he committed to traveling with the goal of fighting for ISIL. For the reasons
19 set forth above, the government urges the Court to sentence the defendant to a term of imprisonment of
20 15 years, followed by a term of supervised release of 15 years. While this is a lengthy sentence, the
21 government submits that is not greater than necessary to accomplish the sentencing goals of this Court.

22
23 DATED: December 10, 2016

Respectfully submitted,

24 BRIAN J. STRETCH
25 United States Attorney

26 /s/
Elise Becker
27 Assistant United States Attorney
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12
13 UNITED STATES OF AMERICA,) CASE NO. CR 16-0166 RS
14 Plaintiff,)
15 v.) DECLARATION OF FBI SPECIAL AGENT JOHN
16 ISLAM SAID NATSHEH,) C. ILLIA
17 Defendant.)
18)

19 I, John C. Illia, declare:

20 1. I am a Special Agent with the Federal Bureau of Investigation and have been so
21 employed since 2003. I am the FBI Special Agent responsible for the investigation in the above-
22 captioned matter. The evidence gathered through this investigation of the defendant includes the
23 following.

24
25 2. In May of 2015, the FBI interviewed Natsheh's father. In July of 2015, the FBI spoke
26 with Natsheh's mother. We advised them at the time that their son was posting ISIL propaganda on his
27 social media accounts.
28

1 3. The FBI has reviewed several social media accounts identified by Natsheh as belonging
2 to him. During their review of those accounts, the FBI found that Natsheh posted images of the
3 Jordanian pilot being burned alive by ISIL. Natsheh admitted that he posted this video in an interview
4 in August of 2015. I also found a posting stating "our men prescribe to you PTSD," which I interpret as
5 meaning Post Traumatic Stress Disorder associated with intense, combat-related stress. I also found a
6 posted picture stating "Jihad If Not Now, Then When? Join The Islamic State." This is just a sampling
7 of the propaganda posted by Natsheh in his social media accounts.


8
9 4. I have also reviewed an email account identified by Natsheh as belonging to him. In that
10 email account, I found a draft email date February 27, 2015, in which Natsheh stated "I declare my
11 bay'ah to the Khalifa of the Muslims, Abu Bakr al-Baghdadi." A "bay'ah" is a pledge of loyalty in this
12 case to Abu Bakr al-Baghdadi who is the leader of ISIL. Also, during a consent search of Natsheh's
13 phone, I found two religious verdicts, commonly referred to as fatwas which provided justification for
14 the killing of women and children, and rape.

15 5. During an interview on December 28, 2015, and after his arrest on December 29, 2015,
16 Natsheh admitted that he has attempted to travel to Syria to join ISIL to fight, not to participate in
17 humanitarian actions. He further admitted that he knew ISIL was a designated foreign terrorist
18 organization. In a written statement, Natsheh wrote "I intended to fight with Isis against Bashar al-Assad
19 with the mindset that I was going to help free oppression." During the interviews, Natsheh also
20 admitted that he had been utilizing encrypted applications for months in an effort to communicate with
21 ISIL affiliated individuals overseas. He had been communicating with a minor in the United States with
22 whom he intended to travel to Syria to fight with ISIL. He stated that upon his arrival in Istanbul, he
23 planned to take a bus to Adana, a town located near the Syrian border where he thought he could make
24 contact with an ISIL affiliated individual or group who could get him into Syria to join ISIL. In order to
25 arrange for his travel and the minor with whom he intended to travel, Natsheh had applied for and
26 received a credit card in his name on December 7, 2015. On December 17, 2015, Natsheh used the
27 credit card to purchase two round-trip tickets for travel on December 28, 2015. This was the only
28 purchase made on the credit card. On December 28, 2015, the day of his flight, Natsheh withdrew all the

1 money in his bank account, leaving it with a zero balance. Natsheh has never told law enforcement that
2 he renounced the ideology of ISIL.

3
4 I declare, under penalty of perjury, that the foregoing is true and correct to the best of my
5 knowledge.

6 Executed on December 10, 2016.

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8 JOHN C. ILLIA
9 Special Agent
10 Federal Bureau of Investigation
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